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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,052	02/17/2004	Edward C. Leonard	A388051.3PP	9681
36536	7590	08/24/2006		
WYATT, TARRANT & COMBS, LLP 1715 AARON BRENNER DRIVE SUITE 800 MEMPHIS, TN 38120-4367				
EXAMINER CARR, DEBORAH D				
ART UNIT			PAPER NUMBER	
1621				

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/780,052

Applicant(s)

LEONARD, EDWARD C.

Examiner

Deborah D. Carr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-26 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5 June 2006 have been fully considered but they are not persuasive.

Priority

2. Applicant is requested to make the necessary correction to the specification regarding priority. Please check the listed issue dates and if the applications have matured into patents. Claims 7-20 pertains to subject matter added to the application when filed as a CIP therefore it does not received the priority date prior to its filing date of 17 February 2004.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 7-20 rejected under 35 U.S.C. 102(a) as being clearly anticipated by EP-1, 287,825.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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2. Claims 14-20 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for inhibition of cancer cell proliferation, does not reasonably provide enablement for cognitive disease. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

While there is support in the specification that the instant compounds can be used to treat cancer via the inhibition of protein kinase C activity, there is no indication there is not indication the mode of action in cognitive diseases is the same in cancer cell proliferation.

Applicants argue the parent application wherein antioxidative properties of the instant compounds are proven supports the instant invention. Based on this antioxidative property and the structural similarities of the instant compounds with Vitamin E, it can extrapolated that the instant compounds exhibit the ability to treat cognitive diseases.

While antioxidants may be used to treat neurocognitive diseases, to state that all antioxidants can be used to treat these diseases is not supported.

At the time that the invention was originally filed and subsequent child was filed, it was known that Vitamin E was not a viable treatment for cognitive diseases namely Alzheimer Disease. See article in Abstract posted 9 May 2001 or the article released by NIH 25 June 2002.

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Since applicants argue for all outstanding rejections was based on proving priority, the rejections are all maintained. Priority for the instant invention regarding claims 7-20 does not received the priority date prior to its filing date of 17 February 2004.

The following rejection is deemed proper.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 3-20 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Barclay et al. (US Pub. 2003/0129294).

Barclay teaches sargahydroquinoic acid derivatives that read on the instant invention and their use as antioxidants and methods of using them. See sections [0008] –[0010], [0018],

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[0020]. The reference differs by not specifically depicting all of applicable derivatives and examples therefore. However the sargahydroquinoic acid describes has the same hydroquinone substituted polyunsaturated fatty acid backbone and identical substituents on the 10, 14 and 2, positions. Furthermore, the physiological activities are analogous. The claims differ from the prior art by moving the carboxyl and methyl substituents in the 14, 10, 6 and 2 position.

One having ordinary skill in the art would have been motivated to select the claimed compounds with the expectation that moving the carboxyl and methyl substituents in the 14, 10, 6 and 2 positions would not significantly alter the analogous properties of the compound of the reference due to close structural similarity of the compounds.

Allowable Subject Matter

6. Claims 21-26 are allowed.

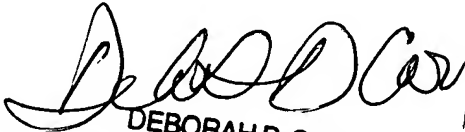
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah D. Carr whose telephone number is 571-272-0637.

The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DEBORAH D. CARR
PRIMARY EXAMINER

ddc